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Attorneys for Defendant Nationwide Coin & Bullion Reserve, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

MARK SATHER, a married)	
individual,)	Case No.: 4:16-CV-05042
)	
Plaintiff,)	ANSWER AND
)	AFFIRMATIVE DEFENSES
vs.)	
)	
NATIONWIDE COIN & BULLION)	
RESERVE, INC.)	
)	
Defendant.)	

Defendant Nationwide Coin & Bullion Reserve, Inc. (“Nationwide”), by and through its attorneys of record, Campbell & Bissell, PLLC, hereby answers Plaintiff’s Complaint as follows:

ANSWER AND AFFIRMATIVE DEFENSES
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I. PARTIES AND JURISDICTION

1. Nationwide lacks sufficient information either to admit or deny the allegations set forth in Paragraph 1 of Plaintiff's Complaint and therefore denies the same.

2. Nationwide admits the allegations contained in Paragraph 2 of Plaintiff's Complaint.

3. Nationwide admits that there is complete diversity between the parties and the amount in controversy exceeds the sum of \$75,000 exclusive of costs. However, Nationwide denies this Court has subject matter jurisdiction as the parties agreed to arbitrate their dispute in Harris County, Texas.

4. Nationwide admits that it does business in this judicial district and this Court has personal jurisdiction over Nationwide. However, Nationwide denies the remaining allegations contained in Paragraph 4 of Plaintiff's Complaint.

5. Nationwide admits the allegations contained in Paragraph 5 of Plaintiff's Complaint. However, Nationwide also affirmatively alleges that the parties agreed to jurisdiction and venue in Harris County, Texas, and that Texas law applies.

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II. FACTUAL ALLEGATIONS

6. Nationwide lacks sufficient information either to admit or deny the allegations set forth in Paragraph 6 of Plaintiff's Complaint and therefore denies the same.

7. Nationwide lacks sufficient information either to admit or deny the allegations set forth in Paragraph 7 of Plaintiff's Complaint and therefore denies the same.

8. Nationwide admits Plaintiff contacted Nationwide via telephone in or about August 2013. However, Nationwide lacks sufficient information either to admit or deny the remaining allegations contained in Paragraph 8 of Plaintiff's Complaint and therefore denies the same.

9. Nationwide lacks sufficient information to either admit or deny the allegations in Paragraph 9 of the Complaint and therefore denies the same.

10. Nationwide denies the allegations contained in Paragraph 10 of Plaintiff's Complaint.

11. Nationwide denies the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Nationwide admits that Plaintiff's purchased a total of \$248,263 in gold coins from Nationwide. However, Nationwide denies the remaining allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Nationwide lacks sufficient information either to admit or deny the allegations contained in Paragraph 13 of Plaintiff's Complaint and therefore denies the same.

14. Nationwide admits it sold Plaintiff a 1984 ten dollar "Olympic Runner" gold commemorative coin from the Philadelphia Mint for \$7,995. However, Nationwide denies the remaining allegations contained in Paragraph 14 of Plaintiff's Complaint.

15. Nationwide admits it sold Plaintiff a 2014 Gold Kennedy Half Dollar coin for \$5,995. However, Nationwide denies the remaining allegations contained in Paragraph 15 of Plaintiff's Complaint.

16. Nationwide denies the allegations contained in Paragraph 16 of Plaintiff's Complaint.

17. Nationwide denies the allegations contained in Paragraph 17 of Plaintiff's Complaint.

III. FIRST CAUSE OF ACTION – FRAUD

18. Nationwide admits and denies the allegations as set forth above.

19. Nationwide denies the allegations contained in Paragraph 19 of Plaintiff's Complaint.

20. Nationwide denies the allegations contained in Paragraph 20 of Plaintiff's Complaint.

21. Nationwide denies the allegations contained in Paragraph 21 of Plaintiff's Complaint.

22. Nationwide denies the allegations contained in Paragraph 22 of Plaintiff's Complaint.

23. Nationwide lacks sufficient information either to admit or deny the allegations contained in Paragraph 23 of Plaintiff's Complaint and therefore denies the same.

24. Nationwide denies the allegations contained in Paragraph 24 of Plaintiff's Complaint.

IV. SECOND CAUSE OF ACTION – NEGLIGENT MISREPRESENTATION

25. Nationwide admits and denies the allegations as set forth above.

26. Nationwide denies the allegations contained in Paragraph 26 of Plaintiff's Complaint.

27. Nationwide denies the allegations contained in Paragraph 27 of Plaintiff's Complaint.

28. Nationwide denies the allegations contained in Paragraph 28 of Plaintiff's Complaint.

V. THIRD CAUSE OF ACTION – WASHINGTON CONSUMER PROTECTION ACT

29. Nationwide admits and denies the allegations as set forth above.

30. Nationwide denies the allegations contained in Paragraph 30 of Plaintiff's Complaint.

31. Nationwide denies the allegations contained in Paragraph 31 of Plaintiff's Complaint.

32. Nationwide denies the allegations contained in Paragraph 32 of Plaintiff's Complaint.

33. Paragraph 33 of Plaintiff's Complaint does not require an answer, but to the extent that it may, Nationwide denies the allegations therein.

VI. FOURTH CAUSE OF ACTION – BREACH OF FIDUCIARY DUTY

34. Nationwide admits and denies the allegations as set forth above.

35. Nationwide denies the allegations contained in Paragraph 35 of Plaintiff's Complaint.

36. Nationwide denies the allegations contained in Paragraph 36 of Plaintiff's Complaint.

37. Nationwide denies the allegations contained in Paragraph 37 of Plaintiff's Complaint.

38. Nationwide denies the allegations contained in Paragraph 38 of Plaintiff's Complaint.

39. Nationwide denies the allegations contained in Paragraph 39 of Plaintiff's Complaint.

40. Nationwide denies the allegations contained in Paragraph 40 of Plaintiff's Complaint.

41. Nationwide denies the allegations contained in Paragraph 41 of Plaintiff's Complaint.

* * *

Any allegation not specifically admitted in Plaintiff's Complaint is hereby denied.

* * *

AFFIRMATIVE DEFENSES

WHEREFORE, having fully answered Plaintiff's Complaint, Nationwide alleges the following by way of affirmative defenses:

1. The parties agreed to arbitrate their dispute and, therefore, the Court lacks subject matter jurisdiction. Consequently, the matter should either be dismissed or stayed pending arbitration.

2. Plaintiff has failed to state a claim or claims upon which relief can be granted;

3. No fiduciary relationship existed between Plaintiff and Nationwide;

4. Plaintiff's action is barred by in whole or in part by the contractually agreed statute of limitations of one year from the date the cause(s) of action accrued;

5. Plaintiff's damages, if any, were caused by his own conduct or the fault of others for whom Defendant was not responsible;

6. Plaintiff failed to mitigate his damages, including failing to take advantage of Nationwide's return policy of which he was well aware, and had in fact used on occasion for full refund returns;

7. Plaintiff assumed the risk of purchasing/owning precious metals; and

8. Plaintiff cannot establish justifiable reliance.

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PRAYER FOR RELIEF

Wherefore, Defendant prays for the following relief:

1. A determination that this matter is subject to arbitration, followed by the dismissal of the action or a stay pending conclusion of the arbitration pursuant to the Federal Arbitration Act;
2. An Order dismissing the Complaint with prejudice;
3. An award of attorney's fees and costs as allowed by applicable law and contract; and
4. For such other and further relief as the Court deems just and equitable.

DATED this 26th day of May, 2016.

CAMPBELL & BISSELL, PLLC
Attorneys for Defendant Nationwide Coin &
Bullion Reserve, Inc.

s/ Michael S. Bissell
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of May, 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send notification of such filings to the following:

- **Kevin P. Sullivan**
Patrick J. Sullivan
The Sullivan Law Firm
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s/ Michael S. Bissell

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